UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,006	12/11/2003	Gerald P. McCann	7233-101	2300

167 7590 03/16/2005

FULBRIGHT AND JAWORSKI L L P
PATENT DOCKETING 29TH FLOOR
865 SOUTH FIGUEROA STREET
LOS ANGELES, CA 900172576

EXAMINER	
ALI, MOHAMMAD M	

ART UNIT	PAPER NUMBER
3744	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/735,006	MCCANN ET AL.	
	Examiner	Art Unit	
	Mohammad Ali	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 12/11/03 is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the (check valve" for claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-7, 9, 22, 25 and 28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Deering et al, (5,433,348). Deering et al., disclose dispensing system comprising a carbonated water circulation circuit 143, a bar gun/dispensing tower 110 in fluid communication with the carbonated water circulation circuit 143, a circulation pump (see column 11, lines 36-40) capable of inducing circulation in the carbonated water circulation circuit and a cold

plate, an ice storage bin/chamber 141 including heat transfer coils/(waterline/product (See column 10, lines 35-43). Deering et al., disclose the invention substantially including the bar gun/dispensing tower 143. The dispensing tower 143 as can be conveniently served at bar table and the Examiner considers this dispensing tower as the bar gun. Alternatively, having a specific gun for dispensing beverages is an obvious choice of the individual skilled in the art since there is no criticality or unexpected result from it.

Claims 8, 11-13, 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deering et al. in view of Cragun (5,450,882). Deering et al., in disclose the invention substantially including a temperatur of the close carbonator circuit of approximately 34 degree F (which is obviously equivalent to 33 degree F) as claimed as stated above. However, Deering et al. in view of do not disclose the location of carbonation between a circulation pump and a heat transfer coils. Cragun teaches the use of carbonator 312 between a circulation pump 306 and a heat transfer coil 308 in a carbonated beverage dispensing system for the purpose of dispensing drinks. See Fig. 8. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Deering et al., in view of Cragun such that carbonator could be provided between a circulating pump and a heat transfer coil in order to dispense the carbonated beverage.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deering et al. in view of Bethuy et al., (5,732,563). Deering et al., disclose the invention substantially as claimed as stated above. However, Deering et al., do not disclose a

check valve. Bethuy et al., teach the use of a check valve CV between a carbonator 10 and bar gun/dispensing valve 55 in a beverage dispenser for the purpose of fluid ccontrol between the carbonator and the dispensing valve. See Fig 13. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Deering et al., in view of Bethuy et al., such that a check valve could be provided in order to control fluid flow between the carbonator and the dispensing valve.

Claims 23-24, 26-27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deering et al. in view of Newton (6,230,982). Deering et al., disclose the invention substantially as claimed as stated above. However, Deering et al., do not disclose a circulation of 35 gal./hr, 15 gal./hr. Newton teaches the use of a circulation of ranging from .1 to 35 gallons per hour in food beverage industry for the purpose of dispensing beverage fluid. The abstract and colums 8, lines 43-45. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Deering et al., in view of Newton such that a circulation ranging from .1 to 35 gallons per hour could be provided in order to dispense the beverage fluid.

Claims 14-15 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deering et al. in view of Cragun as applied to claims 11 and 16 above and further in view of Newton. Deering et al., in view of Cragun disclose the invention substantially as claimed as stated above. However, Deering et al., in view of

do not disclose a circulation of 35 gal./hr, 15 gal./hr. Newton teaches the use of a circulation of ranging from .1 to 35 gallons per hour in food beverage industry for the purpose of dispensing beverage fluid. The abstract and colums 8, lines 43-45. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Deering et al., in view of Cragun and further in view of Newton such that a circulation ranging from .1 to 35 gallons per hour could be provided in order to dispense the beverage fluid.

Response to Arguments

Applicant's arguments with respect to claims 30 have been considered but are moot in view of the new ground(s) of rejection as stated above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Mohammad M. Ali

March 14, 2005

WILLIAM TAPOLCAI
PRIMARY EXAMINER